

HOUSE BILL No. 2345

By Representatives Ousley, Baker, Carlson, Concannon, Curtis, Esau, Finney, Helmer, Hoheisel, Hoyer, Humphries, T. Johnson, Neighbor, Penn, Resman, Rhiley, S. Ruiz and Vaughn

2-10

1 AN ACT concerning children and minors; relating to the legislature;
2 establishing the office of the child advocate for children's protection
3 and services; prescribing certain powers, duties and functions;
4 amending K.S.A. 2020 Supp. 38-2211, 38-2212, 38-2213, 38-2309 and
5 38-2310 and repealing the existing sections.
6

7 *Be it enacted by the Legislature of the State of Kansas:*

8 New Section 1. (a) As used in sections 1 through 5, and amendments
9 thereto:

10 (1) "Child" means any child who is in the custody of the secretary for
11 children and families or receiving child welfare services from the Kansas
12 department for children and families or the department's grantees, Kansas
13 department for aging and disability services or the office of judicial
14 administration or who may be alleged to be a child in need of care; and

15 (2) "office" means the office of the child advocate for children's
16 protection and services within the legislative branch that includes the child
17 advocate and staff.

18 (b) (1) There is hereby established the office of the child advocate for
19 children's protection and services within the legislative branch of the
20 government.

21 (2) The purpose of the office is to ensure that children and families
22 receive adequate coordination of child welfare services, for child
23 maltreatment prevention, protection and care through services offered by
24 the Kansas department for children and families, the Kansas department
25 for aging and disability services, the department of corrections, the
26 department of health and environment and the office of judicial
27 administration. The child advocate shall perform the duties required by
28 sections 1 through 5, and amendments thereto, independently from such
29 departments and offices under review by the office and report directly to
30 the legislature.

31 (c) (1) The office shall be administered by the child advocate, who
32 shall be jointly appointed by the governor and subject to confirmation by
33 the senate as provided in K.S.A. 75-4315b, and amendments thereto, for a
34 term of six years and until a successor has been appointed and confirmed.

1 The child advocate will serve under the direction of the legislature.

2 (2) The child advocate shall be a person that either holds a current
3 relevant license that would authorize the individual to work as a licensed
4 professional as a case manager, behavioral health professional or attorney
5 for a child in need of care or has seven or more years of experience in the
6 field of child welfare.

7 (3) The child advocate shall be in the unclassified service and shall
8 receive such compensation as is determined by the legislative coordinating
9 council, except that such compensation may be increased but not
10 diminished during such service. Either the house of representatives
11 standing committee on children and seniors or the senate standing
12 committee on public health and welfare may recommend to the legislative
13 coordinating council changes in the compensation of the child advocate.
14 The child advocate shall receive travel expenses and subsistence expenses
15 and allowances as provided for members of the legislature in K.S.A. 75-
16 3212, and amendments thereto, when attending any authorized meeting or
17 business outside the city of Topeka.

18 (4) The office of the child advocate for the children's protection and
19 services shall be under the direct supervision of the child advocate.
20 Employees in the office shall be employed by and be responsible to the
21 child advocate who shall fix the compensation of each such employee
22 subject to approval of the legislative coordinating council and within
23 budget and appropriations therefor.

24 (d) (1) On or before the first day of the legislative session in 2022,
25 and each year thereafter, the child advocate shall submit an annual report
26 to the governor, the house of representatives standing committee on
27 children and seniors, the senate standing committee on public health and
28 welfare and the office of judicial administration. Such report shall include,
29 but not be limited to, the number of complaints received by the office, the
30 disposition of such complaints, the number of children involved in such
31 complaints, the state entities named in such complaints, whether such
32 complaints were found to be substantiated and any recommendations for
33 improving the delivery of child welfare services to reduce complaints or
34 improving the function of the office.

35 (2) Such reports are not subject to change by the the house of
36 representatives standing committee on children and seniors or the senate
37 standing committee on public health and welfare, except that either
38 committee may request that additional information, not subject to section
39 4, and amendments thereto, that was gathered as part of the report but was
40 not presented in the written report may be added to subsequent copies of
41 the report or may be distributed separately.

42 New Sec. 2. (a) The child advocate shall:

43 (1) Address complaints made by or on behalf of a child that relate to

- 1 state agencies, service providers, including contractors, subcontractors and
- 2 any juvenile court, that may adversely affect the health, safety, welfare or
- 3 civil or human rights of such child;
- 4 (2) establish a procedure for receiving, processing, responding to and
- 5 resolving such complaints;
- 6 (3) conduct an independent review of any entity that has been the
- 7 subject of three or more review requests in a calendar year, including, but
- 8 not limited to, the Kansas department for children and families or any
- 9 guardian ad litem;
- 10 (4) submit any findings and recommendations to the Kansas
- 11 department for children and families and recommend changes to the
- 12 policies and procedures to improve the delivery of child welfare services
- 13 or the function of any entity review pursuant to subsection (a)(3);
- 14 (5) make inquiries and review relevant information and records the
- 15 office deems necessary for investigations required by subsections (a)(1)
- 16 and (3);
- 17 (6) recommend changes to policies, procedures or adopted or
- 18 proposed rules and regulations of any state or local agency that adversely
- 19 affect or may adversely affect the health, safety, welfare or civil or human
- 20 rights of any child;
- 21 (7) analyze and monitor the development and implementation of
- 22 federal, state and local laws, rules and regulations and policies with respect
- 23 to child welfare services in the state and recommend changes in such laws,
- 24 rules and regulations and policies to the Kansas department for children
- 25 and families, Kansas department for aging and disability services, the
- 26 department of health and environment, the department of corrections, the
- 27 office of judicial administration, the legislature and the governor;
- 28 (8) inform and educate children, their guardians and families of the
- 29 child's rights and entitlements under state and federal laws; and
- 30 (9) fulfill responsibilities in this section guided by generally accepted
- 31 principles of best practices in child welfare.
- 32 (b) The office may:
- 33 (1) Access the following information:
- 34 (A) The names and physical locations of all children in protective
- 35 services, treatment or other programs under the jurisdiction of the Kansas
- 36 department for children and families, Kansas department for aging and
- 37 disability services and the office of judicial administration;
- 38 (B) all written reports of child abuse and neglect; and
- 39 (C) all current records required to be maintained pursuant to articles
- 40 22 and 23 of chapter 38 of the Kansas Statutes Annotated, and
- 41 amendments thereto;
- 42 (2) communicate privately with any child or child's siblings, after
- 43 consultation with treatment professionals and service providers and with

1 anyone working with the child, including the family, relatives, employees
2 of the Kansas department for children and families, Kansas department for
3 aging and disability services, the office of judicial administration and other
4 persons or entities providing treatment and child welfare services to such
5 child;

6 (3) access, inspect and copy relevant child records held by the clerk
7 of any Kansas court, any public or private institution, law enforcement
8 agency and other agency or person with whom a particular child has been
9 either voluntarily or otherwise placed for care or from whom the child has
10 received treatment within this state or in another state;

11 (4) work in conjunction with guardians ad litem;

12 (5) file any of the office's findings or reports regarding a parent or
13 child with the appropriate court with jurisdiction over a child in need of
14 care case involving such child, and issue recommendations regarding the
15 disposition of an investigation to the court and to the investigating agency,
16 but is prohibited from intervening in divorce, protection from abuse,
17 juvenile offender, administrative hearings, civil or criminal proceedings;

18 (6) file amicus curiae briefs of the findings and recommendations of
19 the office in appeals from child in need of care matters;

20 (7) utilize the resources of the office of the attorney general, as
21 necessary, to carry out any duties of the child advocate for children's
22 protection and services and receive legal counsel or services;

23 (8) initiate meetings with personnel from the Kansas department for
24 children and families, Kansas department for aging and disability services
25 and office of judicial administration;

26 (9) apply for and accept grants, gifts and bequests of moneys from
27 other state, interstate or federal agencies, independent authorities, private
28 firms, individuals or foundations to carry out the child advocate's duties
29 and responsibilities. The moneys shall be deposited in a dedicated account
30 established within the office. Moneys shall be expended in accordance
31 with the provisions of the grant or bequest; and

32 (10) establish local panels on a regional or county basis to adequately
33 and efficiently carry out the functions and duties of the office and address
34 complaints in a timely manner as appropriate.

35 New Sec. 3. (a) Each finding, conclusion, opinion or recommendation
36 of the office of the child advocate for the children's protection and services
37 shall be confidential and shall not be disclosed pursuant to the provisions
38 of the open records act or under any other law until: (1) The time of the
39 next scheduled meeting of either the house of representatives standing
40 committee on children and seniors or the senate standing committee on
41 public health and welfare held after distribution of the report to members
42 of such committee; or (2) the time of the next scheduled meeting of
43 another legislative committee held after distribution of the report to the

1 members of such committee as authorized by the house of representatives
2 standing committee on children and seniors or the senate standing
3 committee on public health and welfare.

4 (b) For any information obtained from a state agency or other entity
5 under sections 1 through 5, and amendments thereto, the office shall be
6 subject to K.S.A. 38-2209 through K.S.A. 38-2213, and amendments
7 thereto, and any federal statutory disclosure restrictions and confidentiality
8 requirements that are applicable to the state agency or other entity
9 providing such information to the office.

10 (c) The provisions of this section providing for confidentiality of
11 records shall expire on July 1, 2026, unless the legislature reviews and
12 reenacts such provisions pursuant to K.S.A. 45-229, and amendments
13 thereto, prior to July 1, 2026.

14 New Sec. 4. (a) Any employee of the office shall be immune from
15 suit and liability, in an official capacity and personally, for the good faith
16 performance of duties prescribed in sections 1 through 3, and amendments
17 thereto.

18 (b) (1) No person shall take reprisal or retaliatory action against any
19 recipient of child welfare services or employee of the Kansas department
20 for children and families and such department's grantees, the Kansas
21 department for aging and disability services, the department of corrections,
22 the department of health and environment and the office of judicial
23 administration for any communication made or information given to the
24 office for the purpose of compliance with sections 1 through 3, and
25 amendments thereto. Any person who knowingly violates the provisions of
26 this paragraph shall be guilty of a class A nonperson misdemeanor.

27 (2) No employee of the office of the child advocate for children's
28 protection and services shall:

29 (A) Knowingly disclose false information; or

30 (B) disclose confidential information without lawful authority.

31 (c) As used in this section, "reprisal or retaliatory action" includes,
32 but is not limited to:

33 (1) Letters of reprimand or unsatisfactory performance evaluations;

34 (2) transfer;

35 (3) demotion;

36 (4) reduction in pay;

37 (5) denial of promotion;

38 (6) suspension;

39 (7) dismissal; and

40 (8) denial of employment.

41 New Sec. 5. (a) The annual budget request of the office shall be
42 prepared by the child advocate, and the child advocate shall present such
43 budget request to the legislative coordinating council. Such council shall

1 make any changes such council desires in such budget request and upon
2 approval of the budget request by the council, the office of the child
3 advocate shall submit such budget request to the director of the budget as
4 other budget requests are submitted under K.S.A. 75-3717, and
5 amendments thereto.

6 (b) All expenditures from appropriations to the office shall be made
7 upon warrants of the director of accounts and reports issued pursuant to
8 vouchers approved by the child advocate or the child advocate's designee.

9 (c) (1) The secretary for children and families shall enter into
10 agreements with the office for provision of financial assistance to the
11 office by the Kansas department for children and families from available
12 state and federal funds of such department. This financial assistance shall
13 be to assist the child advocate to provide child advocacy services in
14 accordance with sections 1 through 5, and amendments thereto.

15 (2) For the fiscal year ending June 30, 2022, and for each fiscal year
16 thereafter, the secretary for children and families shall include in the
17 budget estimates prepared and submitted to the division of the budget for
18 the Kansas department for children and families under K.S.A. 75-3717,
19 and amendments thereto, in addition to other amounts included in such
20 budget estimates for the Kansas department for children and families,
21 amounts provided to the office during such fiscal year pursuant to this
22 section. The amounts included in such budget estimates to be provided to
23 the office shall include amounts to be appropriated from federal moneys
24 provided to the Kansas department for children and families.

25 (3) Commencing with the fiscal year ending on June 30, 2023, the
26 Kansas department for children and families shall not provide less than the
27 aggregate amount provided to the office the preceding fiscal year, ending
28 on June 30, 2022. The Kansas department for children and families shall
29 adjust the aggregate amounts to be provided to the office appropriately for
30 increases attributable to inflation and other applicable factors.

31 Sec. 6. K.S.A. 2020 Supp. 38-2211 is hereby amended to read as
32 follows: 38-2211. (a) *Access to the official file*. The following persons or
33 entities shall have access to the official file of a child in need of care
34 proceeding pursuant to this code:

35 (1) The court having jurisdiction over the proceedings, including the
36 presiding judge and any court personnel designated by the judge.

37 (2) The parties to the proceedings and their attorneys.

38 (3) The guardian ad litem for a child who is the subject of the
39 proceeding.

40 (4) A court appointed special advocate for a child who is the subject
41 of the proceeding or a paid staff member of a court appointed special
42 advocate program.

43 (5) Any individual, or any public or private agency or institution,

1 having custody of the child under court order or providing educational,
2 medical or mental health services to the child or any placement provider or
3 potential placement provider as determined by the secretary or court
4 services officer.

5 (6) A citizen review board.

6 (7) The secretary of corrections or any agents designated by the
7 secretary of corrections.

8 (8) Any county or district attorney from another jurisdiction with a
9 pending child in need of care matter regarding any of the same parties.

10 (9) *The office of the child advocate for children's protection and*
11 *services, pursuant to sections 1 through 5, and amendments thereto.*

12 (10) Any other person when authorized by a court order, subject to
13 any conditions imposed by the order.

14 ~~(10)~~(11) The commission on judicial performance in the discharge of
15 the commission's duties pursuant to article 32 of chapter 20 of the Kansas
16 Statutes Annotated, and amendments thereto.

17 (b) *Access to the social file.* The following persons or entities shall
18 have access to the social file of a child in need of care proceeding pursuant
19 to this code:

20 (1) The court having jurisdiction over the proceeding, including the
21 presiding judge and any court personnel designated by the judge.

22 (2) The attorney for a party to the proceeding or the person or persons
23 designated by an Indian tribe that is a party.

24 (3) The guardian ad litem for a child who is the subject of the
25 proceeding.

26 (4) A court appointed special advocate for a child who is the subject
27 of the proceeding or a paid staff member of a court appointed special
28 advocate program.

29 (5) A citizen review board.

30 (6) The secretary.

31 (7) The secretary of corrections or any agents designated by the
32 secretary of corrections.

33 (8) Any county or district attorney from another jurisdiction with a
34 pending child in need of care matter regarding any of the same parties or
35 interested parties.

36 (9) *The office of the child advocate for children's protection and*
37 *services, pursuant to sections 1 through 5, and amendments thereto.*

38 (10) Any other person when authorized by a court order, subject to
39 any conditions imposed by the order.

40 (c) *Preservation of records.* The Kansas state historical society shall
41 be allowed to take possession for preservation in the state archives of any
42 court records related to proceedings under the Kansas code for care of
43 children whenever such records otherwise would be destroyed. No such

1 records in the custody of the Kansas state historical society shall be
2 disclosed directly or indirectly to anyone for 70 years after creation of the
3 records, except as provided in subsections (a) and (b). Pursuant to
4 subsections (a)~~(9)~~(10) and (b)~~(9)~~(10), a judge of the district court may
5 allow inspection for research purposes of any court records in the custody
6 of the Kansas state historical society related to proceedings under the
7 Kansas code for care of children.

8 Sec. 7. K.S.A. 2020 Supp. 38-2212 is hereby amended to read as
9 follows: 38-2212. (a) *Principle of appropriate access.* Information
10 contained in confidential agency records concerning a child alleged or
11 adjudicated to be in need of care may be disclosed as provided in this
12 section. Disclosure shall in all cases be guided by the principle of
13 providing access only to persons or entities with a need for information
14 that is directly related to achieving the purposes of this code.

15 (b) *Free exchange of information.* Pursuant to K.S.A. 2020 Supp. 38-
16 2210, and amendments thereto, the secretary and juvenile intake and
17 assessment agencies shall participate in the free exchange of information
18 concerning a child who is alleged or adjudicated to be in need of care.

19 (c) *Necessary access.* The following persons or entities shall have
20 access to information from agency records. Access shall be limited to
21 information reasonably necessary to carry out their lawful responsibilities,
22 to maintain their personal safety and the personal safety of individuals in
23 their care, or to educate, diagnose, treat, care for or protect a child alleged
24 to be in need of care. Information authorized to be disclosed pursuant to
25 this subsection shall not contain information that identifies a reporter of a
26 child who is alleged or adjudicated to be a child in need of care.

27 (1) A child named in the report or records, a guardian ad litem
28 appointed for the child and the child's attorney.

29 (2) A parent or other person responsible for the welfare of a child, or
30 such person's legal representative.

31 (3) A court-appointed special advocate for a child, a citizen review
32 board or other advocate that reports to the court.

33 (4) A person licensed to practice the healing arts or mental health
34 profession in order to diagnose, care for, treat or supervise:

35 (A) A child whom such service provider reasonably suspects may be
36 in need of care;

37 (B) a member of the child's family; or

38 (C) a person who allegedly abused or neglected the child.

39 (5) A person or entity licensed or registered by the secretary of health
40 and environment or approved by the secretary for children and families to
41 care for, treat or supervise a child in need of care.

42 (6) A coroner or medical examiner when such person is determining
43 the cause of death of a child.

1 (7) The state child death review board established under K.S.A. 22a-
2 243, and amendments thereto.

3 (8) An attorney for a private party who files a petition pursuant to
4 K.S.A. 2020 Supp. 38-2233(b), and amendments thereto.

5 (9) A foster parent, prospective foster parent, permanent custodian,
6 prospective permanent custodian, adoptive parent or prospective adoptive
7 parent. In order to assist such persons in making an informed decision
8 regarding acceptance of a particular child, to help the family anticipate
9 problems that may occur during the child's placement, and to help the
10 family meet the needs of the child in a constructive manner, the secretary
11 shall seek and shall provide the following information to such persons as
12 the information becomes available to the secretary:

13 (A) Strengths, needs and general behavior of the child;

14 (B) circumstances that necessitated placement;

15 (C) information about the child's family and the child's relationship to
16 the family that may affect the placement;

17 (D) important life experiences and relationships that may affect the
18 child's feelings, behavior, attitudes or adjustment;

19 (E) medical history of the child, including third-party coverage that
20 may be available to the child; and

21 (F) education history, to include present grade placement, special
22 strengths and weaknesses.

23 (10) The state protection and advocacy agency as provided by K.S.A.
24 65-5603(a)(10) or ~~K.S.A. 74-5515(a)(2)(A) and (B)~~, and amendments
25 thereto.

26 (11) Any educational institution to the extent necessary to enable the
27 educational institution to provide the safest possible environment for its
28 pupils and employees.

29 (12) Any educator to the extent necessary to enable the educator to
30 protect the personal safety of the educator and the educator's pupils.

31 (13) *The office of the child advocate for children's protection and*
32 *services, pursuant to sections 1 through 5, and amendments thereto.*

33 (14) Any other federal, state or local government executive branch
34 entity or any agent of such entity, having a need for such information in
35 order to carry out such entity's responsibilities under the law to protect
36 children from abuse and neglect.

37 (d) *Specified access.* The following persons or entities shall have
38 access to information contained in agency records as specified.
39 Information authorized to be disclosed pursuant to this subsection shall not
40 contain information that identifies a reporter of a child who is alleged or
41 adjudicated to be a child in need of care.

42 (1) Information from confidential agency records of the Kansas
43 department for children and families, a law enforcement agency or any

1 juvenile intake and assessment worker of a child alleged or adjudicated to
2 be in need of care shall be available to members of the standing house or
3 senate committee on judiciary, house committee on corrections and
4 juvenile justice, house committee on appropriations, senate committee on
5 ways and means, legislative post audit committee and any joint committee
6 with authority to consider children's and families' issues, when carrying
7 out such member's or committee's official functions in accordance with
8 K.S.A. 75-4319, and amendments thereto, in a closed or executive
9 meeting. Except in limited conditions established by $\frac{2}{3}$ of the members of
10 such committee, records and reports received by the committee shall not
11 be further disclosed. Unauthorized disclosure may subject such member to
12 discipline or censure from the house of representatives or senate. The
13 secretary for children and families shall not summarize the outcome of
14 department actions regarding a child alleged to be a child in need of care
15 in information available to members of such committees.

16 (2) The secretary for children and families may summarize the
17 outcome of department actions regarding a child alleged to be a child in
18 need of care to a person having made such report.

19 (3) Information from confidential reports or records of a child alleged
20 or adjudicated to be a child in need of care may be disclosed to the public
21 when:

22 (A) The individuals involved or their representatives have given
23 express written consent; or

24 (B) the investigation of the abuse or neglect of the child or the filing
25 of a petition alleging a child to be in need of care has become public
26 knowledge, provided, however, that the agency shall limit disclosure to
27 confirmation of procedural details relating to the handling of the case by
28 professionals.

29 (e) *Court order.* Notwithstanding the provisions of this section, a
30 court of competent jurisdiction, after in camera inspection, may order
31 disclosure of confidential agency records pursuant to a determination that
32 the disclosure is in the best interests of the child who is the subject of the
33 reports or that the records are necessary for the proceedings of the court.
34 The court shall specify the terms of disclosure and impose appropriate
35 limitations.

36 (f) (1) Notwithstanding any other provision of law to the contrary,
37 except as provided in paragraph (6), in the event that child abuse or
38 neglect results in a child fatality or near fatality, reports or records of a
39 child alleged or adjudicated to be in need of care received by the secretary,
40 a law enforcement agency or any juvenile intake and assessment worker
41 shall become a public record and subject to disclosure pursuant to K.S.A.
42 45-215, and amendments thereto.

43 (2) Within seven days of receipt of a request in accordance with the

1 procedures adopted under K.S.A. 45-220, and amendments thereto, the
2 secretary shall notify any affected individual that an open records request
3 has been made concerning such records. The secretary or any affected
4 individual may file a motion requesting the court to prevent disclosure of
5 such record or report, or any select portion thereof. Notice of the filing of
6 such motion shall be provided to all parties requesting the records or
7 reports, and such party or parties shall have a right to hearing, upon
8 request, prior to the entry of any order on such motion. If the affected
9 individual does not file such motion within seven days of notification, and
10 the secretary has not filed a motion, the secretary shall release the reports
11 or records. If such motion is filed, the court shall consider the effect such
12 disclosure may have upon an ongoing criminal investigation, a pending
13 prosecution, or the privacy of the child, if living, or the child's siblings,
14 parents or guardians, and the public's interest in the disclosure of such
15 records or reports. The court shall make written findings on the record
16 justifying the closing of the records and shall provide a copy of the journal
17 entry to the affected parties and the individual requesting disclosure
18 pursuant to the Kansas open records act, K.S.A. 45-215 et seq., and
19 amendments thereto.

20 (3) Notwithstanding the provisions of paragraph (2), in the event that
21 child abuse or neglect results in a child fatality, the secretary shall release
22 the following information in response to an open records request made
23 pursuant to the Kansas open records act, within seven business days of
24 receipt of such request, as allowed by applicable law:

25 (A) Age and sex of the child;

26 (B) date of the fatality;

27 (C) a summary of any previous reports of abuse or neglect received
28 by the secretary involving the child, along with the findings of such
29 reports; and

30 (D) any department recommended services provided to the child.

31 (4) Notwithstanding the provisions of paragraph (2), in the event that
32 a child fatality occurs while such child was in the custody of the secretary
33 for children and families, the secretary shall release the following
34 information in response to an open records request made pursuant to the
35 Kansas open records act, within seven business days of receipt of such
36 request, as allowed by applicable law:

37 (A) Age and sex of the child;

38 (B) date of the fatality; and

39 (C) a summary of the facts surrounding the death of the child.

40 (5) For reports or records requested pursuant to this subsection, the
41 time limitations specified in this subsection shall control to the extent of
42 any inconsistency between this subsection and K.S.A. 45-218, and
43 amendments thereto. As used in this section, "near fatality" means an act

1 that, as certified by a person licensed to practice medicine and surgery,
2 places the child in serious or critical condition.

3 (6) Nothing in this subsection shall allow the disclosure of reports,
4 records or documents concerning the child and such child's biological
5 parents that were created prior to such child's adoption. Nothing herein is
6 intended to require that an otherwise privileged communication lose its
7 privileged character.

8 Sec. 8. K.S.A. 2020 Supp. 38-2213 is hereby amended to read as
9 follows: 38-2213. (a) *Principle of limited disclosure.* Information
10 contained in confidential law enforcement records concerning a child
11 alleged or adjudicated to be in need of care may be disclosed as provided
12 in this section. Disclosure shall in all cases be guided by the principle of
13 providing access only to persons or entities with a need for information
14 that is directly related to achieving the purposes of this code.

15 (b) *Free exchange of information.* Pursuant to K.S.A. 2020 Supp. 38-
16 2210, and amendments thereto, a law enforcement agency shall participate
17 in the free exchange of information concerning a child who is alleged or
18 adjudicated to be in need of care.

19 (c) *Access to information in law enforcement records.* In order to
20 discharge their official duties, the following persons or entities shall have
21 access to confidential law enforcement records concerning a child alleged
22 or adjudicated to be in need of care.

23 (1) The court having jurisdiction over the proceedings, including the
24 presiding judge and any court personnel designated by the judge.

25 (2) The secretary.

26 (3) ~~The commissioner of juvenile justice~~ *secretary of corrections.*

27 (4) Law enforcement officers or county or district attorneys or their
28 staff.

29 (5) Any juvenile intake and assessment worker.

30 (6) Members of a court-appointed multidisciplinary team.

31 (7) *The office of the child advocate for children's protection and*
32 *services, pursuant to sections 1 through 5, and amendments thereto.*

33 (8) Any other federal, state or local government executive branch
34 entity, or any agent of such entity, having a need for such information in
35 order to carry out such entity's responsibilities under law to protect
36 children from abuse and neglect.

37 ~~(8)(9)~~ Persons or entities allowed access pursuant to ~~subsection (f)~~ of
38 K.S.A. 2020 Supp. 38-2212(f), and amendments thereto.

39 (d) *Necessary access.* The following persons or entities shall have
40 access to information from law enforcement records when reasonably
41 necessary to carry out their lawful responsibilities, to maintain their
42 personal safety and the personal safety of individuals in their care, or to
43 educate, diagnose, treat, care for or protect a child alleged or adjudicated

1 to be in need of care. Information authorized to be disclosed in this
2 subsection shall not contain information ~~which~~ *that* identifies a reporter of
3 a child alleged or adjudicated to be a child in need of care.

4 (1) Any individual, or public or private agency authorized by a
5 properly constituted authority to diagnose, care for, treat or supervise a
6 child who is the subject of a report or record of child abuse or neglect,
7 including physicians, psychiatrists, nurses, nurse practitioners,
8 psychologists, licensed social workers, child development specialists,
9 physician assistants, community mental health workers, alcohol and drug
10 abuse counselors, and licensed or registered child care providers.

11 (2) School administrators shall have access to but shall not copy law
12 enforcement records and may disclose information to teachers,
13 paraprofessionals and other school personnel as necessary to meet the
14 educational needs of the child or to protect the safety of students and
15 school employees.

16 (3) The department of health and environment or persons authorized
17 by the department of health and environment pursuant to K.S.A. 65-512,
18 and amendments thereto, for the purposes of carrying out responsibilities
19 relating to licensure or registration of child care providers as required by
20 article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments
21 thereto.

22 (e) *Legislative access.* Information from law enforcement records of a
23 child alleged or adjudicated to be in need of care shall be available to
24 members of the standing house or senate committee on judiciary, house
25 committee on corrections and juvenile justice, house committee on
26 appropriations, senate committee on ways and means, legislative post audit
27 committee and any joint committee with authority to consider children's
28 and families' issues, when carrying out such member's or committee's
29 official functions in accordance with K.S.A. 75-4319, and amendments
30 thereto, in a closed or executive meeting. Except in limited conditions
31 established by $\frac{2}{3}$ of the members of such committee, records and reports
32 received by the committee shall not be further disclosed. Unauthorized
33 disclosure may subject such member to discipline or censure from the
34 house of representatives or senate.

35 (f) *Court order.* Notwithstanding the provisions of this section, a
36 court of competent jurisdiction, after in camera inspection, may order
37 disclosure of confidential law enforcement records pursuant to a
38 determination that the disclosure is in the best interests of the child who is
39 the subject of the reports or that the records are necessary for the
40 proceedings of the court and otherwise admissible as evidence. The court
41 shall specify the terms of disclosure and impose appropriate limitations.

42 Sec. 9. K.S.A. 2020 Supp. 38-2309 is hereby amended to read as
43 follows: 38-2309. (a) *Official file.* The official file of proceedings pursuant

1 to this code shall consist of the complaint, process, service of process,
 2 orders, writs and journal entries reflecting hearings held, judgments and
 3 decrees entered by the court. The official file shall be kept separate from
 4 other records of the court.

5 (b) The official file shall be open for public inspection, unless the
 6 judge determines that opening the official file for public inspection is not
 7 in the best interests of a juvenile who is less than 14 years of age.
 8 Information identifying victims and alleged victims of sex offenses, as
 9 defined in article 35 of chapter 21 of the Kansas Statutes Annotated, prior
 10 to their repeal, or article 55 of chapter 21 of the Kansas Statutes
 11 Annotated, or K.S.A. 2020 Supp. 21-6419 through 21-6422, and
 12 amendments thereto, or human trafficking or aggravated human
 13 trafficking, as defined in K.S.A. 21-3446 or 21-3447, prior to their repeal,
 14 or K.S.A. 2020 Supp. 21-5426, and amendments thereto, shall not be
 15 disclosed or open to public inspection under any circumstances. Nothing in
 16 this section shall prohibit the victim or alleged victim of any sex offense
 17 from voluntarily disclosing such victim's identity. An official file closed
 18 pursuant to this section and information identifying the victim or alleged
 19 victim of any sex offense shall be disclosed only to the following:

- 20 (1) A judge of the district court and members of the staff of the court
- 21 designated by the judge;
- 22 (2) parties to the proceedings and their attorneys;
- 23 (3) any individual or any public or private agency or institution:
- 24 (A) Having custody of the juvenile under court order; or
- 25 (B) providing educational, medical or mental health services to the
- 26 juvenile;
- 27 (4) the juvenile's court appointed special advocate;
- 28 (5) any placement provider or potential placement provider as
- 29 determined by the commissioner or court services officer;
- 30 (6) law enforcement officers or county or district attorneys, or their
- 31 staff, when necessary for the discharge of their official duties;
- 32 (7) the Kansas racing commission, upon written request of the
- 33 commission chairperson, for the purpose provided by K.S.A. 74-8804, and
- 34 amendments thereto, except that information identifying the victim or
- 35 alleged victim of any sex offense shall not be disclosed pursuant to this
- 36 subsection;
- 37 (8) juvenile intake and assessment workers;
- 38 (9) the commissioner;
- 39 (10) *the office of the child advocate for children's protection and*
- 40 *services, pursuant to sections 1 through 5, and amendments thereto;*
- 41 (11) any other person when authorized by a court order, subject to any
- 42 conditions imposed by the order; and
- 43 (12) the commission on judicial performance in the discharge of

1 the commission's duties pursuant to article 32 of chapter 20 of the Kansas
2 Statutes Annotated, and amendments thereto.

3 (c) (1) *Social file.* Reports and information received by the court,
4 other than the official file, shall be privileged and open to inspection only
5 by the following:

6 (A) Attorneys for the parties;;

7 (B) juvenile intake and assessment workers;;

8 (C) court appointed special advocates;;

9 (D) juvenile community corrections officers;;

10 (E) the juvenile's guardian ad litem, if any;;

11 (F) *the office of the child advocate for children's protection and*
12 *services, pursuant to sections 1 through 5, and amendments thereto; or*
13 ~~upon~~

14 (G) *any other person when authorized by the order of a judge of the*
15 *district court or appellate court.*

16 (2) The reports shall not be further disclosed without approval of the
17 court or by being presented as admissible evidence.

18 (d) *Preservation of records.* The Kansas state historical society shall
19 be allowed to take possession for preservation in the state archives of any
20 court records related to proceedings under the Kansas juvenile justice code
21 or the revised Kansas juvenile justice code whenever such records
22 otherwise would be destroyed. The Kansas state historical society shall
23 make available for public inspection any unexpunged docket entry or
24 official file in its custody concerning any juvenile 14 or more years of age
25 at the time an offense is alleged to have been committed by the juvenile.
26 No other such records in the custody of the Kansas state historical society
27 shall be disclosed directly or indirectly to anyone for 70 years after
28 creation of the records, except as provided in subsections (b) and (c). A
29 judge of the district court may allow inspection for research purposes of
30 any court records in the custody of the Kansas state historical society
31 related to proceedings under the Kansas juvenile justice code or the
32 revised Kansas juvenile justice code.

33 (e) Relevant information, reports and records, shall be made available
34 to the department of corrections upon request, and a showing that the
35 former juvenile has been convicted of a crime and placed in the custody of
36 the secretary of corrections.

37 Sec. 10. K.S.A. 2020 Supp. 38-2310 is hereby amended to read as
38 follows: 38-2310. (a) All records of law enforcement officers and agencies
39 and municipal courts concerning an offense committed or alleged to have
40 been committed by a juvenile under 14 years of age shall be kept readily
41 distinguishable from criminal and other records and shall not be disclosed
42 to anyone except:

43 (1) The judge of the district court and members of the staff of the

- 1 court designated by the judge;
- 2 (2) parties to the proceedings and their attorneys;
- 3 (3) the Kansas department for children and families;
- 4 (4) the juvenile's court appointed special advocate, any officer of a
5 public or private agency or institution or any individual having custody of
6 a juvenile under court order or providing educational, medical or mental
7 health services to a juvenile;
- 8 (5) any educational institution, to the extent necessary to enable the
9 educational institution to provide the safest possible environment for its
10 pupils and employees;
- 11 (6) any educator, to the extent necessary to enable the educator to
12 protect the personal safety of the educator and the educator's pupils;
- 13 (7) law enforcement officers or county or district attorneys, or their
14 staff, when necessary for the discharge of their official duties;
- 15 (8) the central repository, as defined by K.S.A. 22-4701, and
16 amendments thereto, for use only as a part of the juvenile offender
17 information system established under K.S.A. 2020 Supp. 38-2326, and
18 amendments thereto;
- 19 (9) juvenile intake and assessment workers;
- 20 (10) the department of corrections;
- 21 (11) juvenile community corrections officers;
- 22 (12) the interstate compact for juveniles compact administrator for
23 the purpose of carrying out the responsibilities related to the interstate
24 compact for juveniles;
- 25 (13) *the office of the child advocate for children's protection and*
26 *services, pursuant to sections 1 through 5, and amendments thereto;*
- 27 (14) any other person when authorized by a court order, subject to
28 any conditions imposed by the order; and
- 29 ~~(14)~~(15) as provided in subsection (c).
- 30 (b) The provisions of this section shall not apply to records
31 concerning:
- 32 (1) A violation, by a person 14 or more years of age, of any provision
33 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto, or
34 of any city ordinance or county resolution—~~which~~ *that* relates to the
35 regulation of traffic on the roads, highways or streets or the operation of
36 self-propelled or nonself-propelled vehicles of any kind;
- 37 (2) a violation, by a person 16 or more years of age, of any provision
38 of chapter 32 of the Kansas Statutes Annotated, and amendments thereto;
39 or
- 40 (3) an offense for which the juvenile is prosecuted as an adult.
- 41 (c) All records of law enforcement officers and agencies and
42 municipal courts concerning an offense committed or alleged to have been
43 committed by a juvenile 14 or more years of age shall be subject to the

1 same disclosure restrictions as the records of adults. Information
2 identifying victims and alleged victims of sex offenses, as defined in
3 article 35 of chapter 21 of the Kansas Statutes Annotated, prior to their
4 repeal, or article 55 of chapter 21 of the Kansas Statutes Annotated, and
5 amendments thereto, K.S.A. 2020 Supp. 21-6419 through 21-6422, and
6 amendments thereto, or human trafficking or aggravated human
7 trafficking, as defined in K.S.A. 21-3446 or 21-3447, prior to their repeal,
8 or K.S.A. 2020 Supp. 21-5426, and amendments thereto, shall not be
9 disclosed or open to public inspection under any circumstances. Nothing in
10 this section shall prohibit the victim or any alleged victim of any sex
11 offense from voluntarily disclosing such victim's identity.

12 (d) Relevant information, reports and records, shall be made available
13 to the department of corrections upon request and a showing that the
14 former juvenile has been convicted of a crime and placed in the custody of
15 the secretary of corrections.

16 (e) All records, reports and information obtained as a part of the
17 juvenile intake and assessment process for juveniles shall be confidential,
18 and shall not be disclosed except as provided by statutory law and rules
19 and regulations promulgated by the secretary.

20 (1) Any court of record may order the disclosure of such records,
21 reports and other information to any person or entity.

22 (2) The head of any juvenile intake and assessment program, certified
23 by the secretary, may authorize disclosure of such records, reports and
24 other information to:

25 (A) A person licensed to practice the healing arts who has before that
26 person a juvenile whom the person reasonably suspects may be abused or
27 neglected;

28 (B) a court-appointed special advocate for a juvenile or an agency
29 having the legal responsibility or authorization to care for, treat or
30 supervise a juvenile;

31 (C) a parent or other person responsible for the welfare of a juvenile,
32 or such person's legal representative, with protection for the identity of
33 persons reporting and other appropriate persons;

34 (D) the juvenile, the attorney and a guardian ad litem, if any, for such
35 juvenile;

36 (E) the police or other law enforcement agency;

37 (F) an agency charged with the responsibility of preventing or
38 treating physical, mental or emotional abuse or neglect or sexual abuse of
39 children, if the agency requesting the information has standards of
40 confidentiality as strict or stricter than the requirements of the Kansas code
41 for care of children or the revised Kansas juvenile justice code, whichever
42 is applicable;

43 (G) members of a multidisciplinary team under this code;

1 (H) an agency authorized by a properly constituted authority to
2 diagnose, care for, treat or supervise a child who is the subject of a report
3 or record of child abuse or neglect;

4 (I) any individual, or public or private agency authorized by a
5 properly constituted authority to diagnose, care for, treat or supervise a
6 juvenile who is the subject of a report or record of child abuse or neglect,
7 specifically including the following: Physicians, psychiatrists, nurses,
8 nurse practitioners, psychologists, licensed social workers, child
9 development specialists, physician assistants, community mental health
10 workers, addiction counselors and licensed or registered child care
11 providers;

12 (J) a citizen review board pursuant to K.S.A. 2020 Supp. 38-2207,
13 and amendments thereto;

14 (K) an educational institution to the extent necessary to enable such
15 institution to provide the safest possible environment for pupils and
16 employees of the institution;

17 (L) any educator to the extent necessary for the protection of the
18 educator and pupils;

19 (M) any juvenile intake and assessment worker of another certified
20 juvenile intake and assessment program; ~~and~~

21 (N) the interstate compact for juveniles compact administrator for the
22 purpose of carrying out the responsibilities related to the interstate
23 compact for juveniles; *and*

24 *(O) the office of the child advocate for children's protection and*
25 *services, pursuant to sections 1 through 5, and amendments thereto.*

26 Sec. 11. K.S.A. 2020 Supp. 38-2211, 38-2212, 38-2213, 38-2309 and
27 38-2310 are hereby repealed.

28 Sec. 12. This act shall take effect and be in force from and after its
29 publication in the statute book.